

HOLTZMAN VOGEL JOSEFIK PLLC

Attorneys at Law

45 North Hill Drive
Suite 100
Warrenton, VA 20186
p/540-341-8808
t/540-341-8809

February 2, 2015

Jeff S. Jordan
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
2015 FEB -3 PM 3:16
OFFICE OF GENERAL
COUNSEL

Re: Response of Governor Mike Huckabee in MUR 6907

Dear Mr. Jordan,

This response to the Complaint designated Matter Under Review 6907 is submitted on behalf of Governor Mike Huckabee by the undersigned counsel. American Democracy Legal Fund filed the Complaint in this matter on or about November 21, 2014.¹

The Complainant incorrectly alleges that the Respondent "recently created America Takes ACTION, Inc. ... to plan [his] 2016 presidential run," that certain individuals are employed by America Takes Action to engage in "political work" and "exploratory efforts," and that the Respondent "is using corporate money to fund his 'testing the waters' activities in violation in 11 C.F.R. § 100.72." Complaint at 1, 4. These allegations are not supported by any actual evidence and are factually incorrect. As explained in more detail below, America Takes Action is a Section 501(c)(4) organization that advocates and educates on a number of public policy issues, and it has in no way funded any "testing the waters" activities. The Commission should quickly dismiss this frivolous complaint.

¹ See ADLF Files Complaints Against Huckabee & His Political Non-Profit (Nov. 21, 2014), <http://americandemocracy.org/adlf-files-complaints-against-huckabee-his-political-non-profit/>. American Democracy Legal Fund is a recently established Internal Revenue Code § 527 organization created by David Brock to serve as an "overtly partisan watchdog group." Kenneth P. Vogel, *Media Matters' David Brock expands empire*, Politico (Aug. 13, 2014), <http://www.politico.com/story/2014/08/david-brock-citizens-for-responsibility-and-ethics-in-washington-110003.html>. Mr. Brock claims to believe that "our experience has been that the vast amount of violations of the public trust can be found on the conservative side of the aisle." *Id.* His new organization exists solely to harass Republicans and conservatives with frivolous complaints and sensational allegations.

I. Factual Background

A. America Takes Action

The Complainant falsely alleges that America Takes Action was “recently created ... to plan Respondent’s 2016 presidential run.” Complaint at 1. America Takes Action was not “recently created” – it dates to 2008. On June 2, 2008, Vertical Politics Institute, Inc., filed Articles of Incorporation in Arkansas. *See attached* Articles of Incorporation of Vertical Politics Institute, Inc. Vertical Politics Institute was formed as a Section 501(c)(4) organization whose purpose was to educate Americans about various public policy issues, including economic, social, education, tax, and national defense policies. *See id.* On April 11, 2014, Vertical Politics Institute changed its name to America Takes Action, Inc. *See attached* Articles of Amendment. America Takes Action retains the same basic purpose and mission. (This corporate information is publicly available through the Arkansas Secretary of State, and should have been known to the Complainant.)

America Takes Action undertakes and engages in activities in furtherance of its stated mission that are entirely appropriate for, and consistent with, its tax status. For example, in October 2014, America Takes Action, joined by Concerned Women For America, organized and hosted a Rally for Israel in Washington, DC, “to show support for Israel” and “highlight the threat of global terrorism and the movement in the Middle East to squelch the nation of Israel.”²

The Complaint identifies Chip Saltsman, Bob Wickers, Sarah Huckabee, and Alice Stewart as “ATA employees.” Complaint at 3. The Complainant is once again incorrect. None of these individuals is an employee of America Takes Action. Mr. Saltsman is a member of the Board of Directors of America Takes Action.³ Mr. Saltsman, Ms. Huckabee, and Ms. Stewart are retained by America Takes Action as independent contractors. (Mr. Wickers is not paid by America Takes Action.) Each of these individuals is an independent consultant, and each provides work and services to a variety of clients.

None of these individuals is paid by America Takes Action for any purpose other than to provide services to America Takes Action in furtherance of America Takes Action’s own activities. Mr. Saltsman, Ms. Huckabee, and Ms. Stewart have all counseled Governor Huckabee in the past, and continue to do so today. To various degrees, and at various times, each has been involved in a variety of Governor Huckabee’s activities. The Commission has long recognized that individuals may wear “multiple hats,” and the fact that an individual serves in one capacity does not mean that person cannot also act in another capacity. *See* Advisory Opinion 2007-05 (Iverson); Advisory Opinion 2005-02 (Corzine II) (“the individual may be an agent of Corzine for

² Rally for Israel Press Release, Gov. Mike Huckabee and Penny Nance Announce “Stand with Israel Rally,” <http://www.rallyforisrael.com/press-room/>.

³ Mr. Saltsman was previously a member of the Board of Directors of Vertical Politics Institute.

Governor for a number of purposes related to raising and spending funds and yet perform other acts that are not on behalf of Corzine for Governor”); Advisory Opinion 2003-10 (Rory Reid) (an individual “may at different times act in his capacity as an agent on behalf of the State Party and act as an agent on behalf of Senator Reid”). Under well-established Commission precedent, an individual may provide services to America Takes Action, and also provide unrelated political counsel to Governor Huckabee, without the Commission conflating those two separate roles.

America Takes Action has not paid any expenses related to Governor Huckabee’s consideration of a possible candidacy in 2016. The news articles cited in the Complaint are incorrect to the extent that they report or suggest otherwise, and the Complainant has provided no other materials or evidence in support of its claims.

B. The Complaint’s Allegations Regarding Governor Huckabee’s Activities

Governor Huckabee has been forthcoming about his intentions to consider running for President in 2016. In early January 2015, he left his Fox News television show, and said, “I’m not going to make a decision about running until late in the spring of 2015.”⁴ Later in January 2015, he began a book tour to promote his new book, *God, Guns, Grits, and Gravy*.⁵ As of the date of this response, Governor Huckabee has *not* conducted extensive “testing the waters” activities. As various news articles report, he has spoken to individuals who have advised and/or supported him in the past. Having a conversation with another person does not require funding. America Takes Action has not incurred any expenses on behalf of any “testing the waters” activities.

After the *Washington Post* article upon which the Complaint primarily relies was published, the *Arkansas Democrat-Gazette* contacted Alice Stewart for comment. The *Democrat-Gazette* wrote,

Stewart stressed Huckabee has made no decision on the run and that his nonprofit is an “advocacy group that allows him to focus on issues that are important to him.” She said it should not be seen as a precursor to a campaign staff and added she hadn’t heard anything about the paper’s report of officials looking for campaign office space.⁶

⁴ Associated Press, *Huckabee Leaving Fox News to Mull 2016 Presidential Campaign*, NBC News (Jan. 4, 2015), <http://www.nbcnews.com/politics/politics-news/huckabee-leaving-fox-news-mull-2016-presidential-campaign-n279501>.

⁵ See Philip Rucker, *Mike Huckabee plans 43-stop national book tour*, Washington Post (Jan. 16, 2015), <http://www.washingtonpost.com/blogs/post-politics/wp/2015/01/16/mike-huckabee-plans-43-stop-national-book-tour/>.

⁶ Gavin Lesnick, *Huckabee weighing presidential run, newspaper reports*, Arkansas Democrat-Gazette (Nov. 12, 2014), <http://www.arkansasonline.com/news/2014/nov/12/huckabee-weighing-presidential-run-newspaper-report/>.

1. Governor Huckabee's Advisors Have Not Looked For Office Space For A Campaign Headquarters

According to the Complaint, "Respondent's advisors, including ATA employees, are reportedly currently looking for a space in Little Rock, Arkansas to serve as campaign headquarters." Complaint at 2. This is incorrect. Neither Governor Huckabee nor any of his "advisors" have looked for office space to serve as a campaign headquarters. As noted above, Alice Stewart told the *Arkansas Democrat-Gazette*, "I'm not aware of people searching for any office space in Little Rock."⁷

2. The Complaint Mischaracterizes Governor Huckabee's Recent Travel

The Complaint also alleges that Governor Huckabee was "scheduled to spend much of November 2014 holding private meetings with wealthy Republican donors in Las Vegas, New York and California to gauge their interests in his candidacy and to ask for pledges to ATA and Huck PAC." Complaint at 2. This allegation is also incorrect. Governor Huckabee was not in Las Vegas in November. (He did travel to Las Vegas in December, when he was invited to attend the National Finals Rodeo.) Governor Huckabee was in New York in November on a regular basis for his *Fox News* show, and he was in California on November 20-21 as part of the trip detailed in the paragraph below. None of these trips was "scheduled" for the purpose of "holding private meetings."

3. The Complaint Mischaracterizes Governor Huckabee's Recent Trip To Europe

The Complaint refers to "an international trip with more than 100 pastors and religious leaders." Complaint at 2. In November 2014, Governor Huckabee led a group of pastors on a trip through Krakow, London, and Los Angeles to study the lives of Pope John Paul II, Margaret Thatcher, and Ronald Reagan. The trip, called "*Reagan, Thatcher, and Pope John Paul II Tour: God Raising Extraordinary Leaders for Extraordinary Times*," was organized and paid for by American Renewal Project.⁸ As Governor Huckabee explained, he invited participants on "a remarkable journey to explore how God used extraordinary leaders to awaken nations during extraordinary times."⁹

⁷ *Id.*

⁸ The American Renewal Project's website explains that the organization "exists to educate, encourage and engage pastors, church leaders and congregants to actively participate in their historic God given, responsibility to maintain and refresh the American political conscience." See <http://americanrenewalproject.nationbuilder.com/>.

⁹ See Mike Huckabee's *Reagan, Thatcher, Pope John Paul Tour: "God Raising Extraordinary Leaders for Extraordinary Times*," <http://vimeo.com/98773925>.

4. Other Travel

In addition to the activities described above, Governor Huckabee also travels regularly to speak to groups and organizations. These speaking engagements are booked through a private speakers' bureau, and are not funded by America Takes Action.

As noted above, Governor Huckabee has been forthcoming about considering a presidential candidacy. He is asked about his future plans everywhere he goes, regardless of the true purpose of his travel and appearances. The fact that others may ask these questions does not transform every activity that Governor Huckabee undertakes into a "testing the waters" activity.

II. Analysis

As explained above, the Complainant's allegations are factually incorrect, and entirely unsubstantiated. Governor Huckabee has not used any funds or resources of America Takes Action in connection with any "testing the waters" activities.

A. **America Takes Action Is Not Serving As An Exploratory Committee, and Has Not Spent Funds In Support Of Any "Testing The Waters" Activities**

The Complaint claims that "[i]n preparation for his candidacy, Respondent also created ATA," that "ATA was created to allow Respondent to engage in political exploratory efforts," and that America Takes Action "is functioning as Respondent's exploratory committee in disguise." Complaint at 2, 4. These allegations are flatly incorrect, and the Complaint provides no evidence in support of its claim that America Takes Action has spent any funds in support of the Respondent's "testing the waters" activities.

The Complaint asserts that America Takes Action "employs many of Respondent's closest advisors who will *likely* comprise his campaign staff *once* he announces his candidacy." Complaint at 3 (emphasis added). As noted above, America Takes Action does not employ the identified individuals. Rather, three of the four identified individuals are retained as independent contractors. The Complaint's claim regarding "likely" campaign staff is speculative on its face. The Complaint also claims that "ATA employs Respondent's political advisors and aides, including his chief political consultant and former campaign manager, all of whom are currently being compensated by ATA to explore the feasibility of Respondent's candidacy for president." Complaint at 1 (emphasis added); *see also* Complaint at 4 ("It appears that ATA is compensating these employees for engaging in exploratory efforts and other political activities on behalf of Respondent."). These claims are untrue as well, and the Complaint does not explain what these "exploratory efforts" or "other political activities" might be. The Complainant presents no actual evidence in support of its speculation.

190440611

Page 6 of 6

STATE OF ARKANSAS

SECRETARY OF STATE



Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Articles of Incorporation

of

VERTICAL POLITICS INSTITUTE, INC.

filed in this office June 2, 2008 in compliance with the provisions of the law and are hereby declared a body politic and corporate, by the name and style aforesaid, with all the powers, privileges and immunities granted in the law thereunto appertaining.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 2nd day of June 2008.



Charlie Daniels

Secretary of State

ARTICLES OF INCORPORATION

VERTICAL POLITICS INSTITUTE, I

VERTICAL POLITICS INSTITUTE, Inc. ARTICLES OF INCORPORATION

We, the undersigned, acting as incorporators of a corporation under the profit Act (Act 1147 of 1993), adopt the following Articles of Incorporation
FILED:06/02/08, #Pages:2
Arkansas Secretary of State
Business Services Division

- First:** The name of this corporation shall be Vertical Politics Institute, Inc.
- Second:** The Corporation shall be a mutual benefit corporation.
- Third:** The Corporation shall have no members
- Fourth:** The Corporation is established primarily to further the common good and general welfare of the citizens of the United States of America by educating the citizens of the United States about public policy issues, including economic, social, education, tax, and national defense policies.

No part of the net income of the Corporation shall inure to the benefit of or be distributed to its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services actually rendered and to make payments and distributions in furtherance of the purpose and objects set forth in this Article.

Notwithstanding any other provision of these Articles, this corporation shall not carry on any activity not permitted to be carried on by an organization exempt from federal income tax under section 501(c)(4) of the Internal Revenue Code of 1986, or corresponding provision of any future United State Internal Revenue law.

Upon dissolution of the corporation or the winding up of its affairs, the assets of the Corporation shall be distributed to another organization organized and operated exclusively for charitable purposes or for social welfare purposes as described in section 501(c)(4).

- Fifth:** The address of the corporation's initial registered office shall be 425 West Capitol Avenue, Suite 1700, Little Rock, AR, 72201. The registered agent at this office shall be The Corporation Company.

- Sixth:** The name and address of the incorporator is:

Karen Blackistone
98 Alexandria Pike, Suite 53
Warrenton, VA 20186

1004410489-1


Seventh: The initial Board of Directors shall consist of three persons. The names and address of the initial Directors of the Corporation shall be:

John B. Saltsman, Jr.
6221 Brownlee Dr.
Nashville, TN 37205

Kevin Crass
400 West Capitol Avenue
Suite 2000
Little Rock, AR 72201

Lauren Huckabee
2 Cedar Point Court
Little Rock, AR 72211

IN WITNESS WHEREOF, we have hereunto set out hands this 20th day of May, 2008.



Karen Blackistone, Incorporator

STATE OF ARKANSAS



Mark Martin

ARKANSAS SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Mark Martin, Arkansas Secretary of State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Articles of Amendment

of

VERTICAL POLITICS INSTITUTE, INC.

changing the name to

AMERICA TAKES ACTION, INC.

filed in this office
April 11, 2014.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this 11th day of April, 2014.



Mark Martin

Arkansas Secretary of State



Certificate of Amendment

Does this Amendment include a share exchange? **NO**

The undersigned pursuant to the Arkansas Business Corporation Act of 1987, (Act 958 of 1987), sets forth the following:

1. The name of the corporation is
VERTICAL POLITICS INSTITUTE, INC.

and is duly organized, created and existing under and by virtue of the laws of the State of Arkansas.

2. The amendment to the Articles of Incorporation was adopted on
11 day of, **APRIL, 2014.**

3. The Articles of Incorporation are amended as follows:

WE WISH TO CHANGE THE NAME FROM
VERTICAL POLITICS INSTITUTE, INC. TO
AMERICA TAKES ACTION, INC.

4. If an amendment provides for an exchange, reclassification or cancellation of issued shares and such provisions are not contained in the amendment itself, state the provisions for the implementation.

N/A

- 5a. ☒ The Amendment was adopted by the incorporators or board of directors of the corporation, no action by the shareholders was required to adopt the amendment.

OR

- 5b. The amendment was approved by the shareholders.

(number of shares)

shares of are outstanding.

(number) votes are entitled to be cast

by each voting group entitled to vote separately on the amendment.
The number of votes of each voting group indisputably represented
at the meeting was .

1608414001001